

CALIFORNIA COASTAL COMMISSION

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Staff: Fernie Sy-LB
Staff Report: November 22, 2006
Hearing Date: December 12-15, 2006
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-06-161

APPLICANT: Centurion Plaza, LLC

PROJECT LOCATION: 1150 Granville Drive, City of Newport Beach (Orange County)

PROJECT DESCRIPTION: Construct a new 8,000 square foot one-story office building with a 12,298 square foot subterranean parking garage on a vacant lot in the City of Newport Beach. Grading will consist of 5,315 cubic yards of cut and export.

SUMMARY OF STAFF RECOMMENDATION:

The proposed development involves the construction of a new office building on a vacant lot. The major issues before the Commission relate to adequate parking and water quality. Staff is recommending **APPROVAL** of the proposed project subject to **FIVE (5) SPECIAL CONDITIONS** requiring: **1)** construction-phase best management practices; **2)** submittal of a Final Water Quality Management plan (WQMP); **3)** submittal of a Revised Landscape Plan; **4)** additional approvals for any future development; and **5)** conformance with geotechnical recommendations.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

LOCAL APPROVALS RECEIVED: Approval in Concept (No. 0736-2006) from the City of Newport Beach Planning Department dated April 19, 2006.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Letter from Commission staff to Nestor & Gaffney Architecture, LLP dated May 22, 2006; Letter from Nestor & Gaffney Architecture, LLP to Commission staff dated June 30, 2006; *Geotechnical Due Diligence Study for Proposed Office Building at Newport Center Drive and Granville Drive, 1150 Granville Drive. Lot 10, Tract 14839, City of Newport Beach, Orange County, California (Project No. 03099-01)* prepared by NMG Geotechnical, Inc. dated November 19, 2003; *Geotechnical Update For Design and Construction of Proposed Office Building at Newport Center Drive and Granville Drive, 1150 Granville Drive. Lot 10, Tract 14839, City of Newport Beach, Orange County, California (Project No. 03099-01)* prepared by NMG Geotechnical, Inc. dated July 19, 2006; Letter from Nestor

& Gaffney Architecture, LLP to Commission staff dated September 26, 2006; *Storm Water Pollution Prevention Plan and Monitoring Program For Centurion Partners, LLC* prepared by Centurion Partners, LLC and Luzuriaga Taylor, Inc. dated June 26, 2006; *Water Quality Management Plan For 1150 Granville Drive, Newport Beach, CA 92660* prepared by Luzuriaga Taylor, Inc.. dated June 26, 2006.

LIST OF EXHIBITS

1. Vicinity Maps
 2. Site Plan
 3. Elevations
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I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-06-161 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDTIONS

1. **CONSTRUCTION BEST MANAGEMENT PRACTICES**

A. The permittee shall comply with the following construction-related requirements:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with

construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

2. SUBMITTAL OF A FINAL WATER QUALITY MANAGEMENT PLAN (WQMP)

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall be in substantial conformance with the *Water Quality Management Plan For 1150 Granville Drive, Newport Beach, CA 92660* prepared by Luzuriaga Taylor, Inc. dated June 26, 2006. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (1) The WQMP shall incorporate appropriate structural and non-structural Best Management Practices (BMPs) (site design, source control and treatment control) into the development, designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site.
- (2) Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible.
- (3) Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized through the use of low-maintenance landscaping and efficient irrigation technology or systems.

- (4) Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.
- (5) Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate pollutants of concern (including trash, debris and vehicular fluids such as oil, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner.
- (6) The permittee shall arrange for regularly scheduled vacuum sweeping of the parking areas, in order to prevent dispersal of pollutants that might collect on those surfaces.
- (7) The permittee shall not spray down or wash down the parking lot unless the water used is directed through the sanitary sewer system or a filtered drain.
- (8) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (9) All structural and/or treatment control BMPs shall be designed, installed, and maintained for the life of the project in accordance with well-recognized and accepted design principles and guidelines, such as those contained in the California Stormwater Quality Association Best Management Practice Manuals.
- (10) At a minimum, all BMP traps/separators and/or filters shall be, at a minimum, inspected and cleaned/repaired or otherwise maintained in accordance with the following schedule: (1) prior to the start of the winter storm season, no later than October 15th each year, (2) inspected monthly thereafter for the duration of the rainy season (October 15th -April 30), and cleaned/maintained as necessary based on inspection and, (3) inspected and maintained where needed throughout the dry season.
- (11) The proposed vegetated swales shall be checked regularly for signs of erosion, vegetation loss, and channelization of flow. Vegetation shall be re-planted as necessary to maintain density and coverage.
- (12) Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner.

(13) It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. REVISED LANDSCAPE PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) full sized sets of Revised Landscape Plans that demonstrate the following:

(1) The plan shall demonstrate that:

(a) All landscaping shall consist of native or non-native drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Any existing landscaping that doesn't meet the above requirements shall be removed.

(b) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;

(c) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;

(2) The plan shall include, at a minimum, the following components:

(a) A map showing the type, size, and location of all plant materials that will be on the developed site, the temporary irrigation system, topography of the developed site, and all other landscape features, and

(b) a schedule for installation of plants.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission

amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-06-161. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-06-161. Accordingly, any future improvements to the office commercial center authorized by this permit, including repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-06-161 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

5. CONFORMANCE WITH GEOTECHNICAL RECOMMENDATIONS

- A.** All final design and construction plans, including foundations, grading and drainage plans shall be consistent with all recommendations contained in *Geotechnical Due Diligence Study for Proposed Office Building at Newport Center Drive and Granville Drive, 1150 Granville Drive. Lot 10, Tract 14839, City of Newport Beach, Orange County, California (Project No. 03099-01)* prepared by NMG Geotechnical, Inc. dated November 19, 2003; and *Geotechnical Update For Design and Construction of Proposed Office Building at Newport Center Drive and Granville Drive, 1150 Granville Drive. Lot 10, Tract 14839, City of Newport Beach, Orange County, California (Project No. 03099-01)* prepared by NMG Geotechnical, Inc. dated July 19, 2006. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced geologic engineering report.
- C.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

1. Project Location

The project site is located at 1150 Granville Drive in the City of Newport Beach, Orange County (Exhibit #1). The project site is a vacant lot that is 36,830 square feet in size and the City of Newport Beach Land Use Plan (LUP) designates use of the site for Office Commercial and the proposed project adheres to this designation. To the north of the project site is an existing office building. To the east of the project site is Newport Center Drive. To the south and the west of the site is Granville Drive. The subject site is located approximately 1 ½ miles inland of the beach

2. Project Description

The proposed project consists of construction of a new 8,000 square foot one-story office building (23'-6" above existing grade) with a 12,298 square foot subterranean parking garage on a vacant lot (Exhibits #2-3). A total of thirty-six (36) parking spaces will be provided on site (32 spaces in the subterranean garage and 2 surface parking spaces). Grading will consist of 5,315 cubic yards of cut and export to a location outside of the Coastal Zone.

B. WATER QUALITY AND THE MARINE ENVIRONMENT

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such

materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The protection of water quality is an important aspect of the Coastal Act. Water from the project site will flow into the City of Newport Beach's storm drain system and will ultimately drain to the Pacific Ocean. Recent beach closures occurring throughout Orange County, including those in Huntington Beach and Laguna Beach, have been attributed to polluted urban runoff discharging into the ocean through outfalls. As illustrated by these beach closures, polluted runoff negatively affects both marine resources and the public's ability to access coastal resources.

1. Construction Impacts to Water Quality

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to deal with possible adverse impacts to water quality during construction, the applicant has submitted a *Storm Water Pollution Prevention Plan and Monitoring Program For Centurion Partners, LLC* prepared by Centurion Partners, LLC and Luzuriaga Taylor, Inc. dated June 26, 2006. The plan and accompanying narrative states that some of the measures that will be taken on site consist of placing gravel bag berms along the exterior of the project site and that there will be a designated temporary wash out area. While these actions will assist in preventing any construction based impacts, the Commission is imposing **SPECIAL CONDITION NO. 1**, which outlines additional construction-related requirements to prevent adverse impacts to marine resources from construction.

2. Post-Construction Impacts to Water Quality

The proposed development will result in urban runoff entering the storm water system. Pollutants such as sediments or toxic substances such as grease, motor oil, heavy metals, pesticides and fertilizers are often contained within urban runoff entering the storm water system. In this case, the site drains a new parking lot, paved walkways, landscaped areas and a new building. Therefore, the primary post-construction water quality concerns associated with the proposed project include grease, motor oil, heavy metals, trash, pesticides and fertilizer.

The proposed development would result in the discharge of storm water into the storm water conveyance system. As such, the amount of pollutants carried through the system would increase proportionally. Therefore, the project has the potential to affect the water quality of the coastal waters in Newport Beach.

The proposed project is new development, which affords an opportunity to improve water quality. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. Reductions in the amount of pollutants in the existing runoff would be one step to begin to reduce cumulative

adverse impacts to coastal water quality. The currently proposed project drains a new parking lot, paved walkways, landscaped areas and a new building. As such, appropriate measures must be taken to assure that adverse affects on water quality are minimized. In order to deal with these post construction water quality impacts, the applicant has submitted a *Water Quality Management Plan For 1150 Granville Drive, Newport Beach, CA 92660* prepared by Luzuriaga Taylor, Inc. dated June 26, 2006. The Water Quality Management Plan (WQMP) states that roof downspouts will be directed into the swales, which allow the water to be "filtered" by natural landscaping. There is also a small surface detention pond that will be lined with natural grasses that will help treat and slow down the runoff water from the proposed project. In addition, the subterranean parking lot will utilize a vegetated swale to treat run-off before leaving the site. While these measures are being proposed to deal with post constriction water quality, additional measures are necessary. Therefore, it is necessary to impose **SPECIAL CONDITION NO. 2**, which requires the applicant to submit a Final Water Quality Management Plan (WQMP).

The applicant has stated that landscaping is proposed and plans have been submitted. The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society (www.CNPS.org) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

Commission staff has reviewed the submitted Landscaping Plan and determined that an invasive plant has been found: *Iris Douglasiana (Douglas Iris)*. Therefore, the Commission imposes **SPECIAL CONDITION NO. 3**, which requires the applicant to submit a Revised Landscaping Plan, which consists of native or non-native non-invasive plants.

CONCLUSION

To minimize the adverse impacts upon the marine environment, **THREE (3) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 1** identifies construction-phase best management practices. **SPECIAL CONDITION NO. 2** requires the applicant to submit a Final Water Quality Management Plan. **SPECIAL CONDITION NO. 3**, which requires the applicant to submit a revised Landscape Plan, which only consists of native or non-native drought tolerant plants, which are non-invasive. Only as conditioned does the Commission finds that the proposed project is consistent with Section 30230, 30231 AND 30232 of the Coastal Act.

C. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall

be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

The subject site is located adjacent approximately 1-½ miles inland of the beach. The closest public access is Bayside Drive Beach located approximately 1-½ miles west of the project site. Nevertheless, the project site is adjacent to Pacific Coast Highway, which is an arterial that leads to the coast and visitor-serving coastal amenities (Exhibit #1).

A total of thirty-six (36) parking spaces will be provided on site (34 spaces in the subterranean garage and 2 surface parking spaces). The proposed parking is consistent with the parking standards/requirements in the certified Land Use Plan (LUP), which requires 1 parking space per 250 square feet of office space (8000/250 = 32 parking spaces). In actuality, the proposed project is providing 4 more parking spaces than required by the parking standard. The project site is in an area (approximately 1 ½ miles inland of the beach) where the general public typically would not park for access to the beach. Thus, with the proposed project, there is no significant potential for adverse impacts to public beach access as a result of any parking deficiency. However, to assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **SPECIAL CONDITION NO. 4**, a future improvements special condition.

Therefore, as conditioned, the Commission finds adequate access is available nearby, sufficient parking is provided on site and thus, the proposed development is consistent with Section 30210 of the Coastal Act.

D. GEOLOGY

Section 30253 of the Coastal Act states in relevant part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area...*

To assess the geologic feasibility of the project, the applicant submitted the following reports: *Geotechnical Due Diligence Study for Proposed Office Building at Newport Center Drive and Granville Drive, 1150 Granville Drive. Lot 10, Tract 14839, City of Newport Beach, Orange County, California (Project No. 03099-01)* prepared by NMG Geotechnical, Inc. dated November 19, 2003; and *Geotechnical Update For Design and Construction of Proposed Office Building at Newport Center Drive and Granville Drive, 1150 Granville Drive. Lot 10, Tract 14839, City of Newport Beach, Orange County, California (Project No. 03099-01)* prepared by NMG Geotechnical, Inc. dated July 19, 2006. The investigation states that the primary geotechnical constraints are associated with the subterranean parking garage. However, the investigation ultimately concludes that the project is feasible from an engineering perspective provided the applicant complies with the recommendations contained in the investigation. Some of the proposed recommendations deal with remedial grading, shoring and waterproofing.

In order to assure that risks are minimized, the geotechnical consultant's final recommendations

must be incorporated into the design of the project. Therefore, the Commission imposes **SPECIAL CONDITION NO. 5**, which requires the applicant to submit, for the review and approval of the Executive Director, final design and construction plans reviewed and signed by the geotechnical consultant indicating that the recommendations contained in the geotechnical reports have been incorporated into the design of the proposed project. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act, which requires that geologic risks be minimized and that geologic stability be assured.

E. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with the Chapter 3 policies of the Coastal Act.

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. Since the City only has an LUP, the policies of the LUP are used only as guidance. The Newport Beach LUP includes the following policies, among others, that relate to development at the subject site:

Parking, Policy 2.9.3-3 states,

Require that all proposed development maintain and enhance public access to the coast by providing adequate parking pursuant to the off-street parking regulations in the Zoning Code as of October 13, 2005.

Public Access and Recreation, Policy 3.1.1-1 states,

Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal parks, and trails.

Water Quality, Policy 4.3.2-14 states,

Whenever possible, divert runoff through planted areas or sumps that recharge the groundwater dry wells and use the natural filtration properties of the earth to prevent the transport of harmful materials directly into receiving waters.

The proposed development, as conditioned, is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or further feasible

mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project is located in an urban area. All infrastructure necessary to serve the site exists in the area. As conditioned, the proposed project has been found consistent with the water quality, access and geology policies of Chapter 3 of the Coastal Act. Mitigation measures include special conditions requiring conformance with geotechnical recommendations and adherence to best management practices.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.





